

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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BETH AMENDOLA, on behalf of herself	:	
and others similarly situated,	:	
	:	
Plaintiffs,	:	07 CV 6088 (DLC)
	:	
v.	:	(ECF CASE)
	:	
BRISTOL-MYERS SQUIBB COMPANY,	:	<u>DECLARATION OF</u>
and Does 1 through 20, inclusive,	:	<u>CHAD M. FORREY</u>
	:	
Defendant.	:	
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CHAD M. FORREY, declares, pursuant to 28 U.S.C. § 1746, that the following is true and correct:

1. I am a Senior Territory Business Manager (“TBM” or “sales representative”) in the Virology business division for Bristol-Myers Squibb Company (“BMS”). I have been with BMS since June 2006.
2. I am currently in the Northeast Region and I represent the Northwest Territory in Manhattan. There is one other Virology sales representative in my territory.
3. I work out of my home and my car.
4. I call on (visit) private physician offices as well as on hospitals.
5. My job is to drive (*i.e.*, increase) sales in my territory of the drugs Sustiva, Atripla, and Reyataz, used for treating HIV.
6. There are substantial differences between the way in which I approach a private physician office call and a hospital call. For example: (i) in a hospital call I meet with

and call on different medical professionals, including different types of doctors, nurses, nurse practitioners, and pharmacists, all of whom must feel comfortable with my product; (ii) I have different goals depending on the setting. With a private physician, my underlying goal is to increase that doctor's prescribing habits and drive sales, either by convincing him to prescribe my product or to prescribe more of my product. In a hospital setting, while I am focused on increasing sales generally for the hospital, at times I might also focus on getting my product placed on the hospital's formulary (list of approved products for the hospital); and (iii) I receive specific prescription and sales data for individual physicians in private practice, so I can tailor my calls to them based on the prescribing habits. However, the only data I receive from hospitals are the overall sales; thus, I cannot focus on particular doctors and instead I try to get everyone to prescribe my products.

7. The expectation is that I make 6 to 8 calls per day, be it in a private office or hospital, or combination of both. Whether I hit that number on a given day, or go over or under, depends on a variety of factors, including my customers' schedules, how long my calls take, how many medical providers I am able to visit at a hospital, and my goals for the day/week/month. I determine my own daily and weekly schedule and do not need approval to do so.

8. I receive a list of approximately 100 doctors at the beginning of each year who I am expected to call on. I am permitted to, and do, formulate and adjust the list to add or delete doctors, based on my knowledge of my territory and the doctors within my territory. In addition, at the beginning of each year, I sit down with territory partner and go through the list in order to decide how many times I should call on each doctor throughout the year. Ultimately, my manager must approve these "targets" but my recommendations are usually accepted.

9. During the year, even within the guidelines of the call list, I am given a great deal of flexibility in terms of who I call on and how frequently. For example, in order to qualify for 100% of my incentive compensation, I must complete only 80% of the call plan. Thus, if the target that I set at the beginning of the year is to call on Doctor "A" ten times, I need only call on him 8 times in order to qualify for 100% of my incentive compensation.

10. When calling on doctors, I customize my sales presentation to that doctor's behaviors. I also decide which of the three of my pharmaceutical products to promote to a given doctor. I make my determination, in part, by analyzing reports, where available, of a doctor's prescribing habits, and also by taking into account the types of patients I see in his office, whether he is working in a clinic, where his offices are located and the socio-economic conditions in that locale.

11. My objective during a call is to change a doctor's prescribing behaviors, which is directly tied to increasing the sales of my drugs in my territory. I work towards this objective through incremental steps. Each step of the way, I try to "close" the doctor and obtain a "commitment." For example, I might "close" a particular doctor by asking them to commit to attending a dinner program (with the hope that they will eventually decide to start prescribing my product). Alternatively, I might ask a doctor for a commitment to prescribe a particular product for an appropriate patient. I decide what commitment to seek, how to seek it, and when to seek it, based on my assessment of the doctor, the doctor's prescribing pattern, the doctor's patient population, and the particular situation.

12. During calls, I use various combinations of visual aids, including "slim jims" (pocket-sized visual aids), pens and paper pads with the names of my products on them, direct consumer pamphlets, and guidelines for HIV treatments. I decide which visual aids or

combination of aids I will use on a call, and I make that determination by evaluating a physician's prescribing habits/behaviors and reviewing call notes from my last call with the physician to remind myself of issues that doctor brought up on my previous call with him/her. How I present my call and the materials I use is determined by and tailored to each specific physician I call upon and his/her practice.

13. Additionally, I tailor my calls to the personalities of the physicians and his/her staff with whom I am speaking. One of the most important parts of my job is to build relationships with doctors in order to increase sales in my territory. The stronger the relationship, the more access I can get to the doctors.

14. One of my strengths as a sales person is the ability to change my sales style to adapt to each of my customers. I only provide information that is useful and relevant to a specific physician when calling on that physician and always try to have a genuine, specific reason for visiting a physician (such as to update a package insert).

15. I do a lot of promotional programs, including speaker programs/official speaking engagements, breakfasts, lunches, dinners. I decide what types of programs I am going to do, when to do them, where to do them, who will be invited, and, if there is a speaker, who that speaker will be (I choose from a large list of pre-approved speakers).

16. I do receive simple "core messages" from BMS (usually 2 or 3 per product) that I try to convey during my sales calls. Sales representatives are expected to give the messages to physicians but are afforded flexibility and are permitted to use their own judgment to determine how many of those messages to deliver on a given call and which ones in particular to deliver. They do not have to be delivered verbatim and can be tailored to the physician with whom you are speaking and the flow of the sales call. In addition, these messages are typically a

very small part of a sales call.

17. The ENGAGE sales model serves as a guide for sales calls. However, I do not use it on every call, and indeed, I have developed my own style separate and apart from the ENGAGE model. My managers in Virology do not require that I follow every step of ENGAGE on every call, as long as I am promoting and selling my products within their approved indications.

18. I have done and continue to participate in sales training, including Track 1 and Track 2 training, in addition to “talk points” (*i.e.*, teleconferences with visual slides), online training programs, and Plan of Action (“POA”) conferences, which occur about three times a year, and mid-POA conferences, which are scheduled in between regular POA meetings. The purpose of POAs is to focus on sales training.

19. I am not directly supervised on any regular basis. My DBM goes on ride-alongs with me about once per month to observe how I am doing. Sometimes I go weeks without talking to my manager – he is very hands off. This job is very free and free flexible.

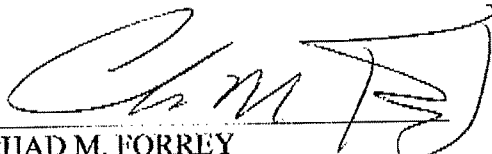
20. In 2007, I received over \$100,000 in combined salary and incentive compensation.

21. My incentive compensation is determined by my percentage of quota attainment (*i.e.*, the dollar amount of sales in my territory for my pharmaceutical drugs). I must hit 100% of that quota to receive my target bonus. Any achievement above and beyond would allow me to earn incrementally higher bonus awards. I always strive to maximize sales in my

territory, and therefore maximize my incentive compensation.

I declare, under penalty of perjury, that the foregoing is true and correct.

Executed on February 5, 2008


CHAD M. FORREY